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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/605,981	11/11/2003	Hagen Klausmann	OSRMP2002-14-01	2980

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EXAMINER	
RHEE, JANE J	

ART UNIT	PAPER NUMBER
1745	

DATE MAILED: 02/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/605,981	KLAUSMANN ET AL.	
	Examiner	Art Unit	
	Jane Rhee	1745	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 November 2005*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-33* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *7/19/2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Rejections Withdrawn

1. The 35 U.S.C. 103(a) rejection of claims 1-12,14-27 over applicant's admitted prior art in view of Forrest et al. and in further view of Brown et al. has been withdrawn due to applicant's amendment filed on 11/16/2006.

Specification

2. The amendment filed 3/24/2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows; "Flash evaporation…fabrication process".

Applicant is required to cancel the new matter in the reply to this Office Action.

New Rejections

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1,5,20,33 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 30 of U.S. Patent No. 6887733 in view of Brown et al. (20030197197).

Patent '733 discloses an organic electronic device comprising a substrate having an active region defined thereon, the active region including an active component, a getter layer deposited directly on the active region the getter layer including an alkaline earth metal and a cap mounted over the active region to seal the active region (claim 30). Patent '733 fail to disclose conducting lines on the substrate and a protective layer on the substrate. Brown teaches that the substrate layer depending on the application at hand is made of a material that includes semiconductors and further teaches that electronic circuitry can be built on the substrate (page 3 paragraph 0052). Brown also teaches a protective layer on the substrate (page 4 paragraph 0066) for the purpose of protecting the OLED region (page 4 paragraph 0066).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Patent '733 with conducting lines on the substrate since Brown teaches that the substrate is made of semiconductors depending on the application at hand and further teaches that the electronic circuitry can be built on the substrate.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide, Patent' 733 with a protective layer in order to protect the OLED region as taught by Brown.

4. Claims 1-5,7,10, 18, 20, 23, and 33 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 18-20,22-24 of copending Application No. 10242004 in view of Brown.

Copending application '004 discloses an organic electronic device comprising a substrate having an active region defined thereon, the active region including an active component, a getter layer deposited directly on the active region the getter layer including an alkaline earth metal and a cap mounted over the active region to seal the active region (claims 18 and 20). Copending application '004 discloses wherein the active component comprises at least one OLED cell to form an OLED device (claim 19). Copending application '004 discloses wherein the substrate comprises flexible material (claim 22) and wherein the getter material comprises barium (claims 23-24).

Copending application '004 fail to disclose conducting lines on the substrate and a protective layer on the substrate. Brown teaches that the substrate layer depending on the application at hand is made of a material that includes semiconductors and further teaches that electronic circuitry can be built on the substrate (page 3 paragraph 0052). Brown also teaches a protective layer on the substrate (page 4 paragraph 0066) for the purpose of protecting the OLED region (page 4 paragraph 0066).

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Patent '733 with conducting lines on

the substrate since Brown teaches that the substrate is made of semiconductors depending on the application at hand and further teaches that the electronic circuitry can be built on the substrate.

Furthermore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide, Patent' 733 with a protective layer in order to protect the OLED region as taught by Brown.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 102/103

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-31,33 are rejected under 35 U.S.C. 102(e) as being anticipated by or in the alternative under 103(a) as obvious over Brown (20030197197).

As to claims 1,7,10,16,18, 27, Brown et al. discloses an organic device (figure 4number 100), comprising a substrate (figure 4 number 110) having an active region defined thereon (figure 4 number 116),the active region comprising at least one active component (page 4 paragraph 0060), the active components including patterned electrodes (page 4 paragraph 0060, page 5 paragraph 0068), conducting lines on the substrate to provide electrical access to the device (page 3 paragraph 0052),a

protective layer (page 4 paragraph 0066) and a getter layer located in the active region, the getter layer disposed on at least one of the active component (figure 4 number 118 page 5 paragraph 0071 states that the getter layers can be applied to the substrate which is directly attached to the active region), the getter layer consists essentially of an alkaline earth metal, barium (page 5 paragraph 0071).

As to claims 2,4,Brown et al. discloses that the substrate comprises a flexible substrate for forming a flexible device (page 5 paragraph 0076).

As to claim 3, Brown et al. discloses that the active component comprises at least one OLED cell to form an OLED device (page 4 paragraph 0060). Brown et al. discloses a cap mounted to a bonding region on the substrate to seal the device (figure 4 number 120).

As to claim 5, Brown et al. discloses a cap mounted to a bonding region on the substrate (figure 6 number 120).

As to claim 6, Brown et al. discloses that the getter layer covers the patterned electrodes of the active components (figure 6 number 130, 116 page 4 col. 1 paragraph 4 lines 1-6).

As to claims 9,15, Brown et al. discloses that getter layers can be applied to the barrier layer (page 5 paragraph 0071) which reads on the limitation of a second getter layer lining an inner surface of the cap since Brown et al. discloses a plurality of layers applied to the barrier layer which is the same layer as applicant's cap layer.

As to claim12, Brown et al. discloses support posts to support the cap (figure 4 number 130), the adhesive 130 on either side of the active component support the barrier layer 120, which is the same as applicant's cap layer.

As to claims 20,23,25,26 Brown et al. discloses an organic device (figure 4 number 100), comprising a substrate (figure 4 number 110) having an active region defined thereon (figure 4 number 116), and a bonding region (figure 4 number 130), the active region comprising one OLED (figure 4 number 116), at least one OLED cell comprising one or more organic layers sandwhiched between upper and lower electrodes (page 4 paragraph 0060), conducting lines on the substrate to provide electrical access to the device (page 3 paragraph 0052),a protective layer (page 4 paragraph 0066) and a getter layer located in the active region, the getter layer disposed on at least one of the active component (figure 6 number 118 page 5 paragraph 0071), the getter layer consists essentially of an alkaline earth metal, barium (page 5 paragraph 0071)) and a cap bonded to the bonding region of the substrate to encapsulate the device (figure 4 number 120). As to wherein the upper electrodes comprise patterned electrodes, Brown teaches that the OLED region contains a plurality of active pixels arranged in rows and columns (page 5 paragraph 0068) and which typically comprise an anode layer, cathode layer and a light emitting layer (page 4 paragraph 0060).

As to claims 21, Brown et al. discloses that getter layers can be applied to the barrier layer (page 5 paragraph 0071) which reads on the limitation of a second getter

layer lining an inner surface of the cap since Brown et al. discloses a plurality of layers applied to the barrier layer which is the same layer as applicant's cap layer.

As to claim 28 and 29, Brown et al. discloses that the protective layer comprises an insulating layer (page 5 lines 1-3).

As to claim 30, Brown discloses that the getter layer encapsulates the at least one active component (figure 3 number 130 and page 5 paragraph 0073).

As to claim 31, Brown discloses that the protective layer is arranged between the cap and conductive lines in the bonding region (figure 6 number 126).

As to claim 33, Brown discloses a substrate (figure 6 number 110) having an active region defined thereon (figure 6 number 116) comprising at least one active component (page 4 paragraph 0060), the at least one active component including patterned electrodes (page 5 paragraph 0068) and a getter layer located in the active region disposed directly on the at least one active component (figure 6 number 130) wherein the getter layer consists essentially of an alkaline earth metal (page 5 paragraph 0071 and 0073).

As to claims 8,11,14,17,19,22,24 regarding the getter layer that is formed by flash evaporation, product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as the product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 227 USPQ 964, 966 (Fed. Cir. 1985). The burden has been shifted to the applicant to show

obvious difference between the claimed product and the prior art product. *In re Marosi*, 218 USPQ 289 (Fed. Cir. 1983).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brown in view of applicant's admitted prior art (spec pages 1-3).

Brown discloses the device described above. Brown fails to disclose that the substrate extends beyond the bonding region outside the cap. Applicant's admitted prior art teaches that the substrate extends beyond the bonding region outside the cap for the purpose of hermetically encapsulating the device with a cap sealing the cells to protect them from deleterious components such as water, oxygen and other gases.

Therefore, it would have been obvious to one having ordinary skill in the art at the time applicant's invention was made to provide Brown with the substrate that extends beyond the bonding region outside the cap in order to hermetically encapsulate the device with a cap sealing the cells to protect them from deleterious components such as water, oxygen and other gases.

Response to Arguments

7. Applicant's arguments with respect to claims 1-33 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jane Rhee whose telephone number is 571-272-1499. The examiner can normally be reached on M-F 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan can be reached on 571-272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Jane Rhee
January 30,2006

PATRICK JOSEPH RYAN
SUPERVISORY PATENT EXAMINER